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20 CENTER FOR COMMUNITY ACTION
21 AND ENVIRONMENTAL JUSTICE

22 **UNITED STATES DISTRICT COURT**
23 **CENTRAL DISTRICT OF CALIFORNIA**

24 CENTER FOR COMMUNITY
25 ACTION AND ENVIRONMENTAL
26 JUSTICE, a non-profit corporation,

27 Plaintiff,

28 vs.

RUUHWAN DANN & ASSOCIATES,
INC. dba CAL MICRO RECYCLING,
a corporation,

Defendant.

Case No. **CV14-0230 VAP (SPX)**

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND
CIVIL PENALTIES

(Federal Water Pollution Control Act,
33 U.S.C. §§ 1251 to 1387)

1 CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL JUSTICE
2 (“CCA EJ”), a California non-profit corporation, by and through its counsel, hereby
3 alleges:
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5 **I. JURISDICTION AND VENUE**

6 1. This is a civil suit brought under the citizen suit enforcement provisions
7 of the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.* (the “Clean
8 Water Act” or “the Act”). This Court has subject matter jurisdiction over the parties
9 and the subject matter of this action pursuant to Section 505(a)(1)(A) of the Act, 33
10 U.S.C. § 1365(a)(1)(A), and 28 U.S.C. § 1331 (an action arising under the laws of the
11 United States). The relief requested is authorized pursuant to 28 U.S.C. §§ 2201-02
12 (power to issue declaratory relief in case of actual controversy and further necessary
13 relief based on such a declaration); 33 U.S.C. §§ 1319(b), 1365(a) (injunctive relief);
14 and 33 U.S.C. §§ 1319(d), 1365(a) (civil penalties).

15 2. On December 6, 2013, Plaintiff provided notice of Defendant’s
16 violations of the Act, and of its intention to file suit against Defendant, to the
17 Administrator of the United States Environmental Protection Agency (“EPA”); the
18 Administrator of EPA Region IX; the Executive Director of the State Water
19 Resources Control Board (“State Board”); the Executive Officer of the California
20 Regional Water Quality Control Board, Santa Ana Region (“Regional Board”); and to
21 Defendant, as required by the Act, 33 U.S.C. § 1365(b)(1)(A). A true and correct
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1 copy of CCAEJ's notice letter is attached as Exhibit A, and is incorporated by
2 reference.

3 3. More than sixty days have passed since notice was served on Defendant
4 and the State and federal agencies. Plaintiff is informed and believes, and thereupon
5 alleges, that neither the EPA nor the State of California has commenced or is
6 diligently prosecuting a court action to redress the violations alleged in this
7 complaint. This action's claim for civil penalties is not barred by any prior
8 administrative penalty under Section 309(g) of the Act, 33 U.S.C. § 1319(g).
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12 4. Venue is proper in the Central District of California pursuant to Section
13 505(c)(1) of the Act, 33 U.S.C. § 1365(c)(1), because the source of the violations is
14 located within this judicial district.
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16 **II. INTRODUCTION**

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18 5. This complaint seeks relief for Defendant's discharges of polluted storm
19 water and non-storm water pollutants from Defendant RUUHWAN DANN &
20 ASSOCIATES, INC. dba CAL MICRO RECYCLING's recycling and scrap facility
21 located at 1541 West Brooks Street in Ontario, CA ("the Facility") in violation of the
22 Act and National Pollutant Discharge Elimination System ("NPDES") Permit No.
23 CAS000001, State Water Resources Control Board Water Quality Order No. 91-13-
24 DWQ, as amended by Water Quality Order No. 92-12-DWQ and Water Quality Order
25 No. 97-03-DWQ (hereinafter the "Permit" or "General Permit"). Defendant's
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1 violations of the discharge, treatment technology, monitoring requirements, and other
2 procedural and substantive requirements of the Permit and the Act are ongoing and
3 continuous.
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5 **III. PARTIES**

6 6. Plaintiff CCAEJ is a non-profit public benefit corporation under the laws
7 of the State of California with its main office in Jurupa Valley, California. CCAEJ
8 dedicated to working with communities to advocate for environmental justice and
9 pollution prevention. CCAEJ and its members are deeply concerned with protecting
10 the environment in and around their communities, including the Santa Ana River
11 Watershed. To further these goals, CCAEJ actively seeks federal and state agency
12 implementation of the Act and other laws and, where necessary, directly initiates
13 enforcement actions on behalf of itself and its members.
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16 7. CCAEJ has members living in the community adjacent to the Facility
17 and the Santa Ana River Watershed. They enjoy using the Santa Ana River for
18 recreation and other activities. Members of CCAEJ use and enjoy the waters into
19 which Defendant has caused, is causing, and will continue to cause, pollutants to be
20 discharged. Members of CCAEJ use those areas to recreate and view wildlife, among
21 other things. Defendant's discharges of pollutants threaten or impair each of those
22 uses or contribute to such threats and impairments. Thus, the interests of CCAEJ's
23 members have been, are being, and will continue to be adversely affected by
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1 Defendant's failure to comply with the Clean Water Act and the Permit. The relief
2 sought herein will redress the harms to Plaintiff caused by Defendant's activities.

3 8. Continuing commission of the acts and omissions alleged above will
4 irreparably harm Plaintiff and its members, for which harm they have no plain, speedy
5 or adequate remedy at law.
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7 9. Defendant RUUHWAN DANN & ASSOCIATES, INC. dba CAL MICRO
8 RECYCLING ("CAL MICRO" or "Defendant") is a corporation that owns and
9 operates a recycling and scrap metal facility in Ontario, California.
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12 **IV. STATUTORY BACKGROUND**

13 10. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge
14 of any pollutant into waters of the United States, unless such discharge is in
15 compliance with various enumerated sections of the Act. Among other things,
16 Section 301(a) prohibits discharges not authorized by, or in violation of, the terms of
17 an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.
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19 11. Section 402(p) of the Act establishes a framework for regulating
20 municipal and industrial storm water discharges under the NPDES program. 33
21 U.S.C. § 1342(p). States with approved NPDES permit programs are authorized by
22 Section 402(p) to regulate industrial storm water discharges through individual
23 permits issued to dischargers or through the issuance of a single, statewide general
24 permit applicable to all industrial storm water dischargers. 33 U.S.C. § 1342(p).
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1 12. Pursuant to Section 402 of the Act, 33 U.S.C. § 1342, the Administrator
2 of the U.S. EPA has authorized California's State Board to issue NPDES permits
3 including general NPDES permits in California.
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5 13. The State Board elected to issue a statewide general permit for industrial
6 storm water discharges. The State Board issued the General Permit on or about
7 November 19, 1991, modified the General Permit on or about September 17, 1992,
8 and reissued the General Permit on or about April 17, 1997, pursuant to Section
9 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).
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11 14. In order to discharge storm water lawfully in California, industrial
12 dischargers must comply with the terms of the General Permit or have obtained and
13 complied with an individual NPDES permit. 33 U.S.C. § 1311(a).
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15 15. The General Permit contains several prohibitions. Effluent Limitation
16 B(3) of the General Permit requires dischargers to reduce or prevent pollutants in
17 their storm water discharges through implementation of the Best Available
18 Technology Economically Achievable ("BAT") for toxic and nonconventional
19 pollutants and the Best Conventional Pollutant Control Technology ("BCT") for
20 conventional pollutants. BAT and BCT include both nonstructural and structural
21 measures. General Permit, Section A(8). Discharge Prohibition A(2) of the General
22 Permit prohibits storm water discharges and authorized non-storm water discharges
23 that cause or threaten to cause pollution, contamination, or nuisance. Receiving
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1 Water Limitation C(1) of the General Permit prohibits storm water discharges to any
2 surface or ground water that adversely impact human health or the environment.

3 Receiving Water Limitation C(2) of the General Permit prohibits storm water
4 discharges that cause or contribute to an exceedance of any applicable water quality
5 standards contained in Statewide Water Quality Control Plan or the applicable
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7 Regional Board's Basin Plan.
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9 16. In addition to absolute prohibitions, the General Permit contains a
10 variety of substantive and procedural requirements that dischargers must meet.
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12 Facilities discharging, or having the potential to discharge, storm water associated
13 with industrial activity that have not obtained an individual NPDES permit must
14 apply for coverage under the State's General Permit by filing a Notice of Intent to
15 Comply ("NOI"). The General Permit requires existing dischargers to have filed their
16 NOIs before March 30, 1992.
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19 17. Dischargers must develop and implement a Storm Water Pollution
20 Prevention Plan ("SWPPP"). The SWPPP must describe storm water control
21 facilities and measures that comply with the BAT and BCT standards. The General
22 Permit requires that an initial SWPPP have been developed and implemented before
23 October 1, 1992. The SWPPP must, among other requirements, identify and evaluate
24 sources of pollutants associated with industrial activities that may affect the quality of
25 storm and non-storm water discharges from the facility and identify and implement
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1 site-specific best management practices ("BMPs") to reduce or prevent pollutants
2 associated with industrial activities in storm water and authorized non-storm water
3 discharges (Section A(2)). The SWPPP's BMPs must implement BAT and BCT
4 (Section B(3)). The SWPPP must include: a description of individuals and their
5 responsibilities for developing and implementing the SWPPP (Section A(3)); a site
6 map showing the facility boundaries, storm water drainage areas with flow pattern
7 and nearby water bodies, the location of the storm water collection, conveyance and
8 discharge system, structural control measures, impervious areas, areas of actual and
9 potential pollutant contact, and areas of industrial activity (Section A(4)); a list of
10 significant materials handled and stored at the site (Section A(5)); a description of
11 potential pollutant sources including industrial processes, material handling and
12 storage areas, dust and particulate generating activities, and a description of
13 significant spills and leaks, a list of all non-storm water discharges and their sources,
14 and a description of locations where soil erosion may occur (Section A(6)). The
15 SWPPP must include an assessment of potential pollutant sources at the Facility and
16 a description of the BMPs to be implemented at the Facility that will reduce or
17 prevent pollutants in storm water discharges and authorized non-storm water
18 discharges, including structural BMPs where non-structural BMPs are not effective
19 (Section A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must
20 be revised where necessary (Sections A(9), (10)).
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1 18. Section C(11)(d) of the General Permit's Standard Provisions requires
2 dischargers to report any noncompliance to the Regional Board. *See also* Section
3 E(6). Section A(9) of the General Permit requires an annual evaluation of storm water
4 controls including the preparation of an evaluation report and implementation of any
5 additional measures in the SWPPP to respond to the monitoring results and other
6 inspection activities.
7

8
9 19. The General Permit requires dischargers commencing industrial
10 activities before October 1, 1992 to develop and implement an adequate written
11 monitoring and reporting program no later than October 1, 1992. Existing facilities
12 covered under the General Permit must implement all necessary revisions to their
13 monitoring programs no later than August 1, 1997.
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16 20. As part of their monitoring program, dischargers must identify all storm
17 water discharge locations that produce a significant storm water discharge, evaluate
18 the effectiveness of BMPs in reducing pollutant loading, and evaluate whether
19 pollution control measures set out in the SWPPP are adequate and properly
20 implemented. Dischargers must conduct visual observations of these discharge
21 locations for at least one storm per month during the wet season (October through
22 May) and record their findings in their Annual Report. Dischargers must also collect
23 and analyze storm water samples from at least two storms per year. Section B(5)(a)
24 of the General Permit requires that dischargers "shall collect storm water samples
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1 during the first hour of discharge from (1) the first storm event of the wet season, and
2 (2) at least one other storm event in the wet season. All storm water discharge
3 locations shall be sampled.” Section B(5)(c)(i) requires dischargers to sample and
4 analyze during the wet season for basic parameters, such as pH, total suspended
5 solids, electrical conductance, and total organic content or oil & grease, certain
6 industry-specific parameters. Section B(5)(c)(ii) requires dischargers to sample for
7 toxic chemicals and other pollutants likely to be in the storm water discharged from
8 the facility. Section B(5)(c)(iii) requires discharges to sample for parameters
9 dependent on a facility’s standard industrial classification (“SIC”) code. Section
10 B(7)(a) indicates that the visual observations and samples must represent the “quality
11 and quantity of the facility’s storm water discharges from the storm event.” Section
12 B(7)(c) requires that “if visual observation and sample collection locations are
13 difficult to observe or sample...facility operators shall identify and collect samples
14 from other locations that represent the quality and quantity of the facility’s storm
15 water discharges from the storm event.”

21
22 21. The General Permit requires that facility operators “investigate the
23 facility to identify all non-storm water discharges and their sources. As part of this
24 investigation, all drains (inlets and outlets) shall be evaluated to identify whether they
25 connect to the storm drain system. All non-storm water discharges shall be described.
26 This shall include the source, quantity, frequency, and characteristics of the non-
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1 storm water discharges and associated drainage area.” Section A(6)(a)(v). The
2 General Permit authorizes certain non-storm water discharges providing that the non-
3 storm water discharges are in compliance with Regional Board requirements; that the
4 non-storm water discharges are in compliance with local agency ordinances and/or
5 requirements; that best management practices (“BMPs”) are included in the Storm
6 Water Pollution Prevention Plan to (1) prevent or reduce the contact of non-storm
7 water discharges with significant materials or equipment and (2) minimize, to the
8 extent practicable, the flow or volume of non-storm water discharges; that the non-
9 storm water discharges do not contain significant quantities of pollutants; and that the
10 monitoring program includes quarterly visual observations of each non-storm water
11 discharge and its sources to ensure that BMPs are being implemented and are
12 effective (Special Conditions D). Section B(3) of the General Permit requires
13 dischargers to conduct visual observations of all drainage areas for the presence of
14 non-storm water discharges, to observe the non-storm water discharges, and maintain
15 records of such observations.

22. Section B(14) of the General Permit requires dischargers to submit an
23 annual report by July 1 of each year to the executive officer of the relevant Regional
24 Board. The annual report must be signed and certified by an appropriate corporate
25 officer. Sections B(14), C(9), (10). Section A(9)(d) of the General Permit requires
26 the discharger to include in their annual report an evaluation of their storm water
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1 including visible sheens and cloudy or muddy water from industrial areas, impairs
2 people's use of the Santa Ana River for contact and non-contact water recreation.

3 26. The Basin Plan includes a narrative toxicity standard which states that
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5 "[t]oxic substances shall not be discharged at levels that will bioaccumulate in
6 aquatic resources to levels which are harmful to human health." *Id.* at 4-18.

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8 27. The Basin Plan includes a narrative oil and grease standard which states
9 that "[w]aste discharges shall not result in deposition of oil, grease, wax, or other
10 material in concentrations which result in a visible film or in coating objects in the
11 water, or which cause a nuisance or adversely affect beneficial uses." *Id.* at 4-15.

12
13 28. The Basin Plan includes a narrative suspended and settleable solids
14 standard which states that "waters shall not contain suspended or settleable solids in
15 amounts which cause a nuisance or adversely affect beneficial uses" *Id.* at 4-16.

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17 29. The Basin Plan includes a narrative floatables standard which states that
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19 "[w]aste discharges shall not contain floating materials, including solids, liquids,
20 foam or scum, which cause a nuisance or adversely affect beneficial uses." *Id.* at 4-
21
22 11.

23 30. The Basin Plan includes a narrative color standard which states that
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25 "[w]aste discharges shall not result in coloration of the receiving waters which causes
26 a nuisance or adversely affect beneficial uses." *Id.* at 4-10.

27 31. The Basin Plan includes a narrative turbidity standard which states that
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1 “inland surface waters . . . shall be free of changes in turbidity which adversely affect
2 beneficial uses. *Id.* at 4-18.

3 32. The Basin Plan sets out a number of numeric water quality standards.
4 The Basin Plan includes Site Specific Objective standards (hereinafter “SSOs”) of
5 0.0017 mg/L for cadmium, 0.0182 mg/L for copper, and 0.0041 mg/L for lead.¹ *Id.* at
6 4-14.
7

8 33. The Basin Plan includes a pH standard of 6.5 – 8.5 standard units
9 (hereinafter “s.u.”). *Id.* at 4-15.
10

11 34. The Basin Plan includes a nitrate standard of 10 mg/L. *Id.* at 4-14.
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13 35. The Basin Plan also sets out additional numeric water quality standards
14 for Chino Creek, which the Facility’s discharge flows through. In particular, the
15 Basin Plan sets numeric water quality objectives of 550 mg/L for total dissolved
16 solids, 240 mg/L for hardness, 75 mg/L for sodium, 75 mg/L for chloride, 8 mg/L for
17 total inorganic nitrogen, 60 mg/L for sulfate, and 15 mg/L for chemical oxygen
18 demand.
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20 36. EPA has promulgated the California Toxics Rule (hereinafter “CTR”),
21 establishing freshwater numeric water quality standards known as Criteria Maximum
22 Concentration (hereinafter “CMC”) and Criteria Continuous Concentration
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28 ¹ The values for cadmium, copper and lead are expressed as a function of total hardness (mg/L) in the water body and correspond to a total hardness of 200 mg/L.

1 (hereinafter “CCC”) for zinc of 0.120 mg/L (CMC and CCC); copper of 0.009 mg/L
 2 (CMC) and 0.013 mg/L (CCC); and for lead of 0.065 mg/L (CMC) and 0.0025 mg/L
 3 (CCC). 40 C.F.R. § 131.38.²
 4

5 37. The EPA has published benchmark levels as guidelines for determining
 6 whether a facility discharging industrial storm water has implemented the requisite
 7 best available technology economically achievable (hereinafter “BAT”) and best
 8 conventional pollutant control technology (hereinafter “BCT”). The following
 9 benchmarks have been established for pollutants discharged by CAL MICRO:
 10 Chemical Oxygen Demand (“COD”) – 120 mg/L, Total Suspended Solids (“TSS”) –
 11 100 mg/L, Total Organic Carbon (“TOC”) – 100 mg/L, Aluminum – 0.75 mg/L,
 12 Copper – 0.0156 mg/L, Iron – 1.0 mg/L, Lead – 0.095 mg/L, and Total Zinc – 0.13
 13 mg/L.³ U.S. Environmental Protection Agency, Multi-Sector General Permit for
 14 Stormwater Discharges Associated with Industrial Activity (2009) 52, 102
 15 (hereinafter “MSGP”).
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20 38. Section 505(a)(1) and Section 505(f) of the Act provide for citizen
 21 enforcement actions against any “person,” including individuals, corporations, or
 22 partnerships, for violations of NPDES permit requirements. 33 U.S.C. §§1365(a)(1)
 23 and (f), § 1362(5). An action for injunctive relief under the Act is authorized by 33
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27 ² The values for zinc, copper, and lead are expressed as a function of total hardness (mg/L) in
 28 the water body and correspond to a total hardness of 100 mg/L.

1 U.S.C. § 1365(a). Violators of the Act are also subject to an assessment of civil
2 penalties of up to \$32,500 per day per violation for all violations occurring through
3 January 12, 2009, and \$37,500 per day per violation for all violations occurring after
4 January 12, 2009, pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §§
5 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1 - 19.4.
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8 **V. STATEMENT OF FACTS**

9 39. On April 1, 2009, CAL MICRO filed a Notice of Intent to Comply With
10 the Terms of the General Permit to Discharge Storm Water Associated with Industrial
11 Activity (hereinafter “NOI”). In its NOI, CAL MICRO has certified that the Facility
12 is classified under SIC Codes 2821 (Plastics Materials, Synthetic Resins, and
13 Nonvulcanized Elastomers), 4952 (Sewerage Systems) and 5093 (Scrap and Waste
14 Materials). The majority of the Facility is paved and used for processing, shredding,
15 and storing electronics, plastics, metals, and fibers. On information and belief,
16 Plaintiff alleges that there is at least one large building located on the property.
17 Plaintiff is informed and believes, and thereupon alleges that processing and
18 shredding is conducted both inside and outside of this building.
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23 40. The Facility collects and discharges storm water from its industrial site
24 into one or more storm drain outfalls located at the Facility. The outfalls discharge
25 into San Bernardino County’s municipal storm sewer system, which flows into Chino
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³ *Id.*

1 Creek which flows into the Santa Ana River.

2 41. On information and belief, Plaintiff alleges that significant activities at
3 the site take place outside and are exposed to rainfall. These activities include the
4 processing, shredding, and storing electronics, plastics, metals, and fibers. Loading
5 and delivery of materials occurs outside. Trucks enter and exit the Facility directly
6 from and to a public road. These areas are exposed to storm water and storm flows
7 due to the lack of overhead coverage, berms, and other storm water controls.
8

9 42. Industrial machinery, heavy equipment and vehicles, including trucks,
10 trailers, and forklifts are operated at the Facility in areas exposed to storm water
11 flows. Plaintiff is informed and believes, and thereupon alleges, that such machinery
12 and equipment leak contaminants such as oil, grease, diesel fuel, coolant, and
13 hydraulic fluids that are exposed to storm water flows, and that such machinery and
14 equipment track sediment and other contaminants throughout the Facility. On
15 information and belief, Plaintiff alleges that trucks leaving the Facility track
16 substantial amounts of material onto adjoining public roads. On information and
17 belief, Plaintiff alleges that during rain events, material that has been tracked from the
18 Facility onto public roads during dry weather is transported via storm water to storm
19 drain channels.
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26 43. Plaintiff is informed and believes, and thereupon alleges that the storm
27 water flows easily over the surface of the Facility, collecting suspended sediment,
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1 dirt, oils, grease, and other pollutants as it flows toward the storm water drains.

2 Storm water and any pollutants contained in that storm water entering the drains
3 flows directly to the Facility's outfalls which discharge to San Bernardino County's
4 municipal storm sewer system, which flows into Chino Creek which flows into the
5 Santa Ana River.
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7
8 44. The management practices at the Facility are wholly inadequate to
9 prevent the sources of contamination described above from causing the discharge of
10 pollutants to waters of the United States. The Facility lacks sufficient structural
11 controls such as grading, berming, roofing, containment, or drainage structures to
12 prevent rainfall and storm water flows from coming into contact with these and other
13 exposed sources of contaminants. The Facility lacks sufficient structural controls to
14 prevent the discharge of water once contaminated. The Facility lacks adequate storm
15 water pollution treatment technologies to treat storm water once contaminated. The
16 Facility lacks controls to prevent the tracking and flow of pollutants onto adjacent
17 public roads.
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22 45. Since at least December 30, 2009, Defendant has taken samples or
23 arranged for samples to be taken of storm water discharges at the Facility. The
24 sample results were reported in the Facility's annual reports submitted to the
25 Regional Board. Defendant CAL MICRO certified each of those annual reports
26 pursuant to Sections A and C of the General Permit.
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46. Since at least December 30, 2009, the Facility has detected TSS and TOC in storm water discharged from the Facility. Since at least February 5, 2010, the Facility has detected copper, lead, zinc, iron, aluminum, and COD in storm water discharged from the Facility. Levels of these pollutants detected in the Facility's storm water have been in excess of EPA's numeric parameter benchmark values. Levels of these pollutants detected in the Facility's storm water have exceeded the parameters for water quality standards in the Basin Plan and the CTR.

47. The following discharges of pollutants from the Facility contained concentrations of pollutants in excess of numeric water quality standards established in the Basin Plan or the CTR, as well as narrative water quality standards in the Basin Plan, evidencing past and ongoing violations of General Permit Discharge Prohibitions A(1) and A(2), Effluent Limitation B(3) and Receiving Water Limitations C(1) and C(2).

Date	Parameter	Observed Concentration	Basin Plan or EPA Water Quality Standard	Outfall (as identified by the Facility)
2/8/2013	Chemical Oxygen Demand	388 mg/L	15 mg/L	South Outfall

1	12/12/2011	Chemical Oxygen Demand	354 mg/L	15 mg/L	South Outfall
2	10/5/2011	Chemical Oxygen Demand	1170 mg/L	15 mg/L	South Outfall
3	2/8/2013	Copper	0.085 mg/L	0.0182 mg/L; 0.009 mg/L (CMC); 0.013 mg/L (CCC)	South Outfall
4	12/12/2011	Copper	0.06 mg/L	0.0182 mg/L; 0.009 mg/L (CMC); 0.013 mg/L (CCC)	South Outfall
5	10/5/2011	Copper	0.185 mg/L	0.0182 mg/L; 0.009 mg/L (CMC); 0.013 mg/L (CCC)	South Outfall
6	2/5/2010	Copper	0.123 mg/L	0.0182 mg/L; 0.009 mg/L (CMC); 0.013 mg/L (CCC)	South Outfall
7	2/8/2013	Lead	0.248 mg/L	0.0041 mg/L; 0.095 mg/L; 0.065 mg/L (CMC); 0.0025 mg/L (CCC)	South Outfall

1	12/12/2011	Lead	0.044 mg/L	0.0041 mg/L; 0.025 mg/L (CCC)	South Outfall
2					
3	10/5/2011	Lead	0.148 mg/L	0.0041 mg/L; 0.095 mg/L; 0.065 mg/L (CMC); 0.0025 mg/L (CCC)	South Outfall
4					
5	2/5/2010	Lead	0.018 mg/L	0.0041 mg/L; 0.0025 mg/L (CCC)	South Outfall
6					
7	2/8/2013	Zinc	1.06 mg/L	0.12 mg/L (CMC and CCC)	South Outfall
8					
9	12/12/2011	Zinc	0.84 mg/L	0.12 mg/L (CMC and CCC)	South Outfall
10					
11	10/5/2011	Zinc	3.14 mg/L	0.12 mg/L (CMC and CCC)	South Outfall
12					
13	2/5/2010	Zinc	0.513 mg/L	0.12 mg/L (CMC and CCC)	South Outfall
14					
15	2/8/2013	Narrative	Muddy	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4- 18)	South Outfall
16					
17	1/10/2013	Narrative	Oily	Oil & Grease (Basin Plan at 4- 15)	South Outfall
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19	12/26/2012	Narrative	Oily	Oil & Grease (Basin Plan at 4- 15)	South Outfall
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1	12/24/2012	Narrative	Muddy	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
2	12/18/2012	Narrative	Oily	Oil & Grease (Basin Plan at 4-15)	South Outfall
3	12/17/2012	Narrative	Muddy	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
4	12/13/2012	Narrative	Oily	Oil & Grease (Basin Plan at 4-15)	South Outfall
5	12/3/2012	Narrative	Yellowish	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
6	11/29/2012	Narrative	Muddy	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
7	11/9/2012	Narrative	Oily	Oil & Grease (Basin Plan at 4-15)	South Outfall
8	2/15/2012	Narrative	Oily	Oil & Grease (Basin Plan at 4-15)	South Outfall

12/12/2011	Narrative	Muddy	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
11/4/2011	Narrative	Yellowish hue	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
10/5/2011	Narrative	Oily	Oil & Grease (Basin Plan at 4-18)	South Outfall
2/5/2010	Narrative	Discoloration	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
12/30/2009	Narrative	Discoloration	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall

48. The level of TSS in storm water measured by Defendant has exceeded the benchmark value for TSS of 100 mg/L established by EPA. For example, on February 8, 2013, the level of TSS measured by Defendant was 195 mg/L. That level of TSS is almost twice the benchmark value for TSS. CAL MICRO also measured levels of TSS in storm water discharged from the Facility in excess of 100 mg/L on October 5, 2011.

1 49. The level of TOC in storm water measured by Defendant has exceeded
2 the benchmark value for TOC of 110 mg/L established by EPA. On October 5, 2011,
3 the level of TOC measured by Defendant was 235 mg/L. That level of TOC is over
4 twice the benchmark value for TOC.
5

6 50. The levels of COD in storm water measured by Defendant have
7 exceeded the water quality standard for COD established in the Basin Plan. For
8 example, on October 5, 2011, the level of COD measured from the Facility was 1170
9 mg/L. That level of COD is 78 times the water quality standard for COD.
10

11 51. The levels of COD in storm water measured by Defendant has exceeded
12 the benchmark value for COD of 120 mg/L established by EPA. For example, on
13 October 5, 2011, the level of COD measured by Defendant was 1,170 mg/L. That
14 level of COD is almost 11 times the benchmark value for COD. Defendant also has
15 measured levels of COD in storm water discharged from the Facility in excess of
16 EPA's benchmark value of 120 mg/L in nearly every other storm water sample it has
17 taken for the past five years, including February 8, 2013, and December 12, 2011.
18

19 52. The levels of copper in storm water measured by Defendant have
20 exceeded the freshwater numeric water quality standards for copper of 0.009 mg/L
21 (CCC) and 0.013 mg/L (CMC) established by the EPA, as well as the SSO for copper
22 of 0.0182 mg/L established in the Basin Plan. For example, on October 5, 2011, the
23 level of copper measured from the Facility was 0.185 mg/L. That level of copper is
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1 over 20 times the CCC for copper, over 14 times the CMC for copper, and over 10
2 times the SSO for copper.

3 53. The level of copper in storm water measured by Defendant has exceeded
4 the benchmark value for copper of 0.0156 mg/L established by EPA. For example,
5 on October 5, 2011, the level of copper measured by Defendant from the Facility was
6 0.185 mg/L. That level of copper is almost 12 times the benchmark value for copper.
7 Defendant also has measured levels of copper in storm water discharged from the
8 Facility in excess of EPA's benchmark value of 0.0156 mg/L in every other storm
9 water sample it has taken for the past five years, including February 8, 2013;
10 December 12, 2011; and February 5, 2010.

11 54. The levels of lead in storm water measured by Defendant have exceeded
12 the freshwater numeric water quality standards for lead of 0.0025 mg/L (CCC) and
13 0.065 mg/L (CMC) established by the EPA, as well as the SSO for lead of 0.0041
14 mg/L established in the Basin Plan. For example, on February 8, 2013, the level of
15 lead measured from the Facility was 0.248 mg/L. That level of lead is over 99 times
16 the CCC for lead, almost 4 times the CMC for lead, and over 60 times the SSO for
17 lead.

18 55. The level of lead in storm water detected by Defendant has exceeded the
19 benchmark value for lead of 0.095 mg/L established by EPA. For example, on
20 February 8, 2013, the level of lead measured by Defendant from the Facility was
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1 0.248 mg/L. That level of lead is over 2.5 times the benchmark value for lead.

2 Defendant also measured levels of lead in storm water discharged from the Facility in
3 excess of EPA's benchmark value of 0.095 mg/L on October 5, 2011.
4

5 56. The levels of zinc in storm water measured by Defendant have exceeded
6 the freshwater numeric water quality standards of 0.12 mg/L for zinc (CMC and
7 CCC) established by the EPA. For example, on October 5, 2011, the level of zinc
8 measured from the Facility was 3.14 mg/L. That level of zinc is over 26 times both
9 the CMC and CCC for zinc.
10
11

12 57. The level of zinc in storm water measured by Defendant has exceeded
13 the benchmark value for zinc of 0.13 mg/L established by EPA. For example, on
14 October 5, 2011, the level of zinc measured by Defendant was 3.14 mg/L. That level
15 of zinc is over 24 times the benchmark value for zinc. Defendant also has measured
16 levels of zinc in storm water discharged from the Facility in excess of EPA's
17 benchmark value of 0.13 mg/L in every other storm water sample it has taken for the
18 past five years, including February 8, 2013; December 12, 2011; and February 5,
19 2010.
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23 58. The level of iron in storm water measured by Defendant has exceeded
24 the benchmark value for iron of 1 mg/L established by EPA. For example, on
25 October 5, 2011, the level of iron measured by Defendant from the Facility was 6.31
26 mg/L. That level of iron is over 6 times the benchmark value for iron. Defendant
27
28

1 also has measured levels of iron in storm water discharged from the Facility in excess
2 of EPA's benchmark value of 1 mg/L in nearly every other storm water sample it has
3 taken for the past five years, including February 8, 2013, and December 12, 2011.
4

5 59. The level of aluminum in storm water measured by Defendant has
6 exceeded the benchmark value for aluminum of 0.75 mg/L established by EPA. For
7 example, on February 8, 2013, the level of aluminum measured by Defendant from
8 the Facility was 4.78 mg/L. That level of aluminum is almost 6.5 times the
9 benchmark value for aluminum. Defendant also has measured levels of aluminum in
10 storm water discharged from the Facility in excess of EPA's benchmark value of 0.75
11 mg/L in every other storm water sample it has taken for the past five years, including
12 December 12, 2011; October 5, 2011; and February 5, 2010.
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17 60. On information and belief, CCAEJ's investigation of the CAL MICRO's
18 monitoring data indicates that it failed to analyze for Copper, Lead, Zinc, Iron,
19 Aluminum, Chemical Oxygen Demand, and pH during the 2009-2010 wet season.
20

21 61. On information and belief, CCAEJ's investigation, including its review
22 of CAL MICRO's analytical results documenting pollutant levels in the Facility's
23 storm water discharges well in excess of applicable water quality standards and the
24 EPA's benchmark values, indicate that CAL MICRO has not implemented BAT and
25 BCT at the facility for its discharges of aluminum, chemical oxygen demand, copper,
26 iron, lead, total organic carbon, total suspended solids, inc, , and other pollutants
27
28

1 affecting color and turbidity in violation of water quality standards and Effluent
2 Limitation B(3) of the General Permit. CAL MICRO was required to have
3 implemented BAT and BCT by no later than October 1, 1992, or since the date the
4 Facility opened. Thus CAL MICRO is discharging polluted storm water associated
5 with its industrial operations without having implemented BAT and BCT. On
6 information and belief, as of the date of this Complaint, Defendant has failed to
7 implement BAT and BCT.

10 62. On information and belief, Plaintiff alleges that since at least December
11 7, 2008, Defendant has failed to implement an adequate Storm Water Pollution
12 Prevention Plan for the Facility. Plaintiff is informed and believes, and thereupon
13 alleges, that the SWPPP prepared for the Facility does not set forth site-specific best
14 management practices for the Facility that are consistent with BAT or BCT for the
15 Facility. Plaintiff is informed and believes, and thereupon alleges, that the SWPPP
16 prepared for the Facility does not include an adequate assessment of potential
17 pollutant sources, structural pollutant control measures employed by the Defendant, a
18 list of actual and potential areas of pollutant contact, or an adequate description of
19 best management practices to be implemented at the Facility to reduce pollutant
20 discharges. According to information available to CCAEJ, Defendant's SWPPP has
21 not been evaluated to ensure its effectiveness and revised where necessary to further
22 reduce pollutant discharges. Plaintiff is informed and believes, and thereupon alleges,

1 that the SWPPP does not include each of the mandatory elements required by Section
2 A of the General Permit.

3 63. CCAEJ's investigation of the conditions at the Facility as well as the
4 City of Ontario's Stormwater Program Inspection Reports indicates that CAL
5 MICRO has consistently failed to implement BMPs adopted as part of the SWPPP.
6 Inspections by the City of Ontario shows that CAL MICRO has failed to implement
7 both non-structural and structural BMPs that are outlined in its SWPPP, including
8 sweeping of trash and debris and installation of storm water treatment controls. City
9 of Ontario Stormwater Program, Industrial Facility Inspection Report, File No.
10 Brooks St W 1541 and 1525 (Jan. 3, 2013); City of Ontario Stormwater Program,
11 Industrial Facility Inspection Report, File No. Brooks St W 1541 and 1525 (Sept. 19
12 2011); City of Ontario Stormwater Program, Industrial Facility Inspection Report,
13 File No. Brooks St W 1541 and 1525 (Oct. 25, 2010); City of Ontario Stormwater
14 Program, Industrial Facility Inspection Report, File No. Brooks St W 1541 and 1525
15 (Dec. 11, 2009).

16 64. Information available to CCAEJ indicates that as a result of these
17 practices, storm water containing excessive pollutants is being discharged during rain
18 events from the Facility directly to the County of San Bernardino storm drain system,
19 which discharges to the Chino Creek, Santa Ana River.

20 65. Plaintiff is informed and believes, and thereupon alleges, that, Defendant
21

1 has failed and continues to fail to alter the Facility's SWPPP and site-specific BMPs
 2 consistent with Section A(9) of the General Permit.

3 66. Plaintiff is informed and believes that Defendant failed to submit to the
 4 Regional Board a true and complete annual report certifying compliance with the
 5 General Permit since at least December 7, 2008. Pursuant to Sections A(9)(d), B(14),
 6 and C(9), (10) of the General Permit, Defendant must submit an annual report, that is
 7 signed and certified by the appropriate corporate officer, outlining the Facility's
 8 storm water controls and certifying compliance with the General Permit. Plaintiff is
 9 informed and believes, and thereupon alleges, that Defendant has signed incomplete
 10 annual reports that purported to comply with the General Permit when there was
 11 significant noncompliance at the Facility.

12 67. Information available to Plaintiff indicates that Defendant has not
 13 fulfilled the requirements set forth in the General Permit for discharges from the
 14 Facility due to the continued discharge of contaminated storm water. Plaintiff is
 15 informed and believes, and thereupon alleges, that all of the violations alleged in this
 16 Complaint are ongoing and continuing.

17 **VI. CLAIMS FOR RELIEF**

18 **FIRST CAUSE OF ACTION**

19 **Failure to Implement the Best Available and**
 20 **Best Conventional Treatment Technologies**
 21 **(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

1 fully set forth herein.

2 73. Discharge Prohibition A(2) of the General Permit requires that storm
3 water discharges and authorized non-storm water discharges shall not cause or threaten
4 to cause pollution, contamination, or nuisance. Receiving Water Limitations C(1) and
5 C(2) of the General Permit require that storm water discharges and authorized non-
6 storm water discharges shall not adversely impact human health or the environment,
7 and shall not cause or contribute to a violation of any water quality standards contained
8 in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin
9 Plan.
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13 74. Plaintiff is informed and believes, and thereupon alleges, that since at least
14 December 7, 2008, Defendant has been discharging polluted storm water from the
15 Facility in excess of applicable water quality standards in violation of the Discharge
16 Prohibition A(2) of the General Permit.
17
18

19 75. During every rain event, storm water flows freely over exposed materials,
20 waste products, and other accumulated pollutants at the Facility, becoming
21 contaminated with aluminum, chemical oxygen demand, copper, iron, lead, total
22 organic carbon, total suspended solids, zinc, floating and suspended materials,
23 discoloration, oil, grease, and other un-monitored pollutants at levels above applicable
24 water quality standards. The storm water then flows untreated from the Facility into
25 the County of San Bernardino' storm drain system, which discharges to the Chino
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1 Creek and then into the Santa Ana River.

2 76. Plaintiff is informed and believes, and thereupon alleges, that these
3 discharges of contaminated storm water are causing or contributing to the violation of
4 the applicable water quality standards in a Statewide Water Quality Control Plan and/or
5 the applicable Regional Board's Basin Plan in violation of Receiving Water Limitation
6 C(2) of the General Permit.
7

8 77. Plaintiff is informed and believes, and thereupon alleges, that these
9 discharges of contaminated storm water are adversely affecting human health and the
10 environment in violation of Receiving Water Limitation C(1) of the General Permit.
11

12 78. Every day since at least December 7, 2008, that Defendant has discharged
13 and continues to discharge polluted storm water from the Facility in violation of the
14 General Permit is a separate and distinct violation of Section 301(a) of the Act, 33
15 U.S.C. § 1311(a). These violations are ongoing and continuous.
16
17

18
19 **THIRD CAUSE OF ACTION**
20 **Failure to Prepare, Implement, Review, and Update**
21 **an Adequate Storm Water Pollution Prevention Plan**
22 **(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

23 79. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
24 fully set forth herein.

25 80. Section A and Provision E of the General Permit requires dischargers of
26 storm water associated with industrial activity to develop and implement an adequate
27 SWPPP no later than October 1, 1992.
28

1 81. Defendant has failed to develop and implement an adequate SWPPP for
2 the Facility. Defendant's ongoing failure to develop and implement an adequate
3 SWPPP for the Facility is evidenced by, *inter alia*, Defendant's outdoor storage of
4 various materials without appropriate best management practices; the continued
5 exposure of significant quantities of various materials to storm water flows; the
6 continued exposure and tracking of waste resulting from the operation of vehicles at the
7 site, including trucks and forklifts; the failure to either treat storm water prior to
8 discharge or to implement effective containment practices; and the continued
9 discharge of storm water pollutants from the Facility at levels in excess of EPA
10 benchmark values and water quality standards.
11

12 82. Defendant has failed to update the Facility's SWPPP in response to the
13 analytical results of the Facility's storm water monitoring.
14

15 83. Each day since December 7, 2008, that Defendant has failed to develop,
16 implement and update an adequate SWPPP for the Facility is a separate and distinct
17 violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a).
18

19 84. Defendant has been in violation of the SWPPP requirements every day
20 since December 7, 2008. Defendant continues to be in violation of the SWPPP
21 requirements each day that it fails to develop and fully implement an adequate SWPPP
22 for the Facility.
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28 **FOURTH CAUSE OF ACTION**
 Failure to Develop and Implement an

Adequate Monitoring and Reporting Program
(Violation of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)

85. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if fully set forth herein.

86. Section B of the General Permit requires dischargers of storm water associated with industrial activity to have developed and be implementing a monitoring and reporting program (including, *inter alia*, sampling and analysis of discharges) no later than October 1, 1992.

87. Defendant has failed to develop and implement an adequate monitoring and reporting program for the Facility. Defendant's ongoing failure to develop and implement an adequate monitoring and reporting program are evidenced by, *inter alia*, its failure to analyze its storm water discharges for copper, lead, zinc, iron, aluminum, chemical oxygen demand, and pH during the 2009-2010 wet season.

88. Each day since December 7, 2008, that Defendant has failed to develop and implement an adequate monitoring and reporting program for the Facility in violation of the General Permit is a separate and distinct violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a). The absence of requisite monitoring and analytical results are ongoing and continuous violations of the Act.

FIFTH CAUSE OF ACTION
False Certification of Compliance in Annual Report
(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)

89. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if

1 fully set forth herein.

2 90. Defendant has falsely certified compliance with the General Permit in
3 each of the annual reports submitted to the Regional Board since at least June 30,
4 2010.

6 91. Each day since at least June 30, 2010, that Defendant has falsely certified
7 compliance with the General Permit is a separate and distinct violation of the General
8 Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a). Defendant continues to be
9 in violation of the General Permit's certification requirement each day that it maintains
10 its false certification of its compliance with the General Permit.
11
12

13 **VII. RELIEF REQUESTED**

14 Wherefore, Plaintiff respectfully requests that this Court grant the following
15 relief:
16

17 a. Declare Defendant to have violated and to be in violation of the Act as
18 alleged herein;
19

20 b. Enjoin Defendant from discharging polluted storm water from the
21 Facility unless authorized by the Permit;
22

23 c. Enjoin Defendant from further violating the substantive and procedural
24 requirements of the Permit;
25

26 d. Order Defendant to immediately implement storm water pollution
27 control and treatment technologies and measures that are equivalent to BAT or BCT
28

1 and prevent pollutants in the Facility's storm water from contributing to violations of
2 any water quality standards;

3 e. Order Defendant to comply with the Permit's monitoring and reporting
4 requirements, including ordering supplemental monitoring to compensate for past
5 monitoring violations;
6

7 f. Order Defendant to prepare a SWPPP consistent with the Permit's
8 requirements and implement procedures to regularly review and update the SWPPP;
9

10 g. Order Defendant to provide Plaintiff with reports documenting the
11 quality and quantity of their discharges to waters of the United States and their efforts
12 to comply with the Act and the Court's orders;
13

14 h. Order Defendant to pay civil penalties of \$32,500 per day per
15 violation for all violations occurring through January 12, 2009, and \$37,500 per day
16 per violation for all violations occurring after January 12, 2009, for each violation of
17 the Act pursuant to Sections 309(d) and 505(a) of the Act, 33 U.S.C. §§ 1319(d),
18 1365(a) and 40 C.F.R. §§ 19.1 - 19.4;
19

20 i. Order Defendant to take appropriate actions to restore the quality of
21 waters impaired or adversely affected by their activities;
22

23 j. Award Plaintiff's costs (including reasonable investigative, attorney,
24 witness, compliance oversight, and consultant fees) as authorized by the Act, 33 U.S.C.
25 § 1365(d); and,
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1 k. Award any such other and further relief as this Court may deem
2 appropriate.
3

4
5 Dated: February 5, 2014

Respectfully submitted,

LAW OFFICE OF GIDEON KRACOV

6
7 By: 

Gideon Kracov

Attorneys for Plaintiff

8
9
10 CENTER FOR COMMUNITY ACTION AND
11 ENVIRONMENTAL JUSTICE
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EXHIBIT A

GIDEON KRACOV

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December 6, 2013

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Ruuhwa Dann, President & Registered Agent
Mike Easterbrook, Chief Compliance Officer
Puneet Gupta, Regulatory Affairs Specialist
Ruuhwa Dann & Associates, Inc.
DBA Cal Micro Recycling
1541 West Brooks Street
Ontario, CA 91762

Ruuhwa Dann, President & Registered Agent
Mike Easterbrook, Chief Compliance Officer
Puneet Gupta, Regulatory Affairs Specialist
Ruuhwa Dann & Associates, Inc.
DBA Cal Micro Recycling
1515 West Holt Boulevard
Ontario, CA 91762

**RE: Notice Of Violations And Intent To File Suit Under The Federal Water
Pollution Control Act Concerning Cal Micro Recycling, 1525 and 1541 West
Brook Street, Ontario, California, WDID No. 8 361022093**

Dear Messrs. Dann, Easterbrook, Gupta,

The Law Office of Gideon Kracov (hereinafter "**Office**") on behalf of the Center for Community Action and Environmental Justice (hereinafter "**CCA EJ**") is contacting you concerning Clean Water Act (hereinafter "**CWA**" or "**Act**") violations at Cal Micro Recycling's facility at 1525 and 1541 West Brooks Street, Ontario, California (hereinafter "**Facility**").

This letter is being sent to you, Mike Easterbrook, Ruuhwa Dann, Puneet Gupta, Cal Micro Recycling, and Ruuhwa Dann & Associates, Inc., as the responsible owners, officers, or operators of the Facility (collectively hereinafter "**Cal Micro**").

CCA EJ is a non-profit public benefit corporation dedicated to working with communities to advocate for environmental justice and pollution prevention. CCA EJ has members living in

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December 6, 2013
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the community adjacent to the Facility and the Santa Ana River Watershed. CCAEJ and its members are deeply concerned with protecting the environment in and around their communities, including the Santa Ana River Watershed.

This letter addresses Cal Micro's unlawful discharge of pollutants from the Facility through the San Bernardino County municipal storm sewer system to the State Street Channel which flows into Brooks Basin, San Antonio Channel, Chino Creek and into the Santa Ana River. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System (hereinafter "NPDES") Permit No. CA S000001, California State Water Resources Control Board (hereinafter "State Board") Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (hereinafter "General Permit"). The WDID identification number for the Facility listed on documents submitted to the California Regional Water Quality Control Board, Santa Ana Region ("Regional Board") is 8 361022093. The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

Section 505(b) of the CWA requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency (hereinafter "EPA"), and the State in which the violations occur.

As required by the Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, Cal Micro is hereby placed on formal notice by CCAEJ that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, CCAEJ intends to file suit in federal court against Cal Micro under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the CWA and General Permit. These violations are described more extensively below.

I. BACKGROUND.

On April 1, 2009 Cal Micro filed a Notice of Intent to Comply With the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity (hereinafter "NOI"). In its NOI, Cal Micro has certified that the Facility is classified under SIC Codes 2821 (Plastics Materials, Synthetic Resins, and Nonvulcanized Elastomers), 4952 (Sewerage Systems) and 5093 (Scrap and Waste Materials). The Facility collects and discharges storm water from its industrial site into one or more storm drain outfalls located at the Facility. The outfalls discharge into San Bernardino County's municipal storm sewer system, which flows into Chino Creek which flows into the Santa Ana River.

The Regional Board has identified beneficial uses of the Santa Ana River Watershed and established water quality standards for the river and its tributaries in "The Water Quality Control

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Plan (Basin Plan) for the Santa Ana River Basin” (hereinafter “**Basin Plan**”). See California Regional Water Quality Control Board, Santa Ana Region, The Water Quality Control Plan (Basin Plan) for the Santa Ana River Basin (2011), *available at* http://www.swrcb.ca.gov/rwqcb8/water_issues/programs/basin_plan/index.shtml.

The beneficial uses of these waters include, among others, municipal and domestic supply, agricultural supply, groundwater recharge, water contact recreation, non-contact water recreation, warm freshwater habitat, cold freshwater habitat, and wildlife habitat. The non-contact water recreation use is defined as “[u]ses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible.” *Id.* at 3-3. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities.” *Id.* Contact recreation use includes fishing and wading. *Id.* at 3-2. Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs people’s use of the Santa Ana River for contact and non-contact water recreation.

The Basin Plan includes a narrative toxicity standard which states that “[t]oxic substances shall not be discharged at levels that will bioaccumulate in aquatic resources to levels which are harmful to human health.” *Id.* at 4-18. The Basin Plan includes a narrative oil and grease standard which states that “[w]aste discharges shall not result in deposition of oil, grease, wax, or other material in concentrations which result in a visible film or in coating objects in the water, or which cause a nuisance or adversely affect beneficial uses.” *Id.* at 4-15. The Basin Plan includes a narrative suspended and settleable solids standard which states that “waters shall not contain suspended or settleable solids in amounts which cause a nuisance or adversely affect beneficial uses” *Id.* at 4-16. The Basin Plan includes a narrative floatables standard which states that “[w]aste discharges shall not contain floating materials, including solids, liquids, foam or scum, which cause a nuisance or adversely affect beneficial uses.” *Id.* at 4-11. The Basin Plan includes a narrative color standard which states that “[w]aste discharges shall not result in coloration of the receiving waters which causes a nuisance or adversely affect beneficial uses.” *Id.* at 4-10. The Basin Plan includes a narrative turbidity standard which states that “inland surface waters . . . shall be free of changes in turbidity which adversely affect beneficial uses. *Id.* at 4-18.

Moreover, the Basin Plan sets out a number of numeric water quality standards. The Basin Plan includes Site Specific Objective standards (hereinafter “SSOs”) of 0.0017 mg/L for cadmium, 0.0182 mg/L for copper, and 0.0041 mg/L for lead.¹ *Id.* at 4-14. The Basin Plan

¹ The values for cadmium, copper and lead are expressed as a function of total hardness (mg/L) in the water body and correspond to a total hardness of 200 mg/L.

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includes a pH standard of 6.5 – 8.5 standard units (hereinafter “s.u.”). *Id.* at 4-15. The Basin Plan includes a Nitrate standard of 10 mg/L. *Id.* at 4-14.

The Basin Plan also sets out additional numeric water quality standards for Chino Creek, which the Facility’s discharge flows through. In particular, the Basin Plan sets numeric water quality objectives of 550 mg/L for total dissolved solids, 240 mg/L for hardness, 75 mg/L for sodium, 75 mg/L for chloride, 8 mg/L for total inorganic nitrogen, 60 mg/L for sulfate, and 15 mg/L for chemical oxygen demand.

EPA has promulgated the California Toxics Rule (hereinafter “CTR”), establishing freshwater numeric water quality standards known as Criteria Maximum Concentration (hereinafter “CMC”) and Criteria Continuous Concentration (hereinafter “CCC”) for zinc of 0.120 mg/L (CMC and CCC); copper of 0.009 mg/L (CMC) and 0.013 mg/L (CCC); and for lead of 0.065 mg/L (CMC) and 0.0025 mg/L (CCC). 40 C.F.R. § 131.38.²

The EPA has published benchmark levels as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable (hereinafter “BAT”) and best conventional pollutant control technology (hereinafter “BCT”). The following benchmarks have been established for pollutants discharged by Cal Micro: Chemical Oxygen Demand – 120 mg/L, Total Suspended Solids – 100 mg/L, Aluminum 0.75 mg/L, Copper 0.0156 mg/L, Iron 1.0 mg/L, Lead – 0.095 mg/L, and Total Zinc – 0.13 mg/L.³ U.S. Environmental Protection Agency, Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (2009) 52, 102 (hereinafter “MSGP”).

II. ALLEGED VIOLATIONS OF THE NPDES PERMIT.

a. Discharges In Violation Of The Permit Not Subjected To BAT/BCT.

Cal Micro has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). Conventional pollutants

² The values for zinc, copper, and lead are expressed as a function of total hardness (mg/L) in the water body and correspond to a total hardness of 100 mg/L.

³ *Id.*

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are Total Suspended Solids, Oil and Grease, pH, Biochemical Oxygen Demand, and Fecal Coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.* §§ 401.15, 401.16.

In addition, Discharge Prohibition A(1) of the General Permit prohibits the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

Receiving Water Limitation C(1) of the General Industrial Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin Plan. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2). As a result, compliance with this provision is measured at the Facility's discharge monitoring locations.

Cal Micro has discharged and continues to discharge storm water with unacceptable levels of copper, lead, zinc, total organic compounds, iron, aluminum, chemical oxygen demand, oil & grease, total suspended solids and other pollutants in violation of the General Permit. Cal Micro' sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

The following discharges of pollutants from the Facility contained concentrations of pollutants in excess of numeric water quality standards established in the Basin Plan or the CTR, evidencing past and ongoing violations of General Permit Discharge Prohibitions A(1) and A(2), Effluent Limitation B(3) and Receiving Water Limitations C(1) and C(2).

Date	Parameter	Observed Concentration	Basin Plan or EPA Water Quality Standard	Outfall (as identified by the Facility)
2/8/2013	Chemical Oxygen Demand	388 mg/L	15 mg/L	South Outfall
12/12/2011	Chemical Oxygen Demand	354 mg/L	15 mg/L	South Outfall

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10/5/2011	Chemical Oxygen Demand	1170 mg/L	15 mg/L	South Outfall
2/8/2013	Copper	0.085 mg/L	0.0182 mg/L; 0.009 mg/L (CMC); 0.013 mg/L (CCC)	South Outfall
12/12/2011	Copper	0.06 mg/L	0.0182 mg/L; 0.009 mg/L (CMC); 0.013 mg/L (CCC)	South Outfall
10/5/2011	Copper	0.185 mg/L	0.0182 mg/L; 0.009 mg/L (CMC); 0.013 mg/L (CCC)	South Outfall
2/5/2010	Copper	0.123 mg/L	0.0182 mg/L; 0.009 mg/L (CMC); 0.013 mg/L (CCC)	South Outfall
2/8/2013	Lead	0.248 mg/L	0.0041 mg/L; 0.095 mg/L; 0.065 mg/L (CMC); 0.025 mg/L (CCC)	South Outfall
12/12/2011	Lead	0.044 mg/L	0.0041 mg/L; 0.025 mg/L (CCC)	South Outfall
10/5/2011	Lead	0.148 mg/L	0.0041 mg/L; 0.095 mg/L; 0.065 mg/L (CMC); 0.025 mg/L (CCC)	South Outfall
2/5/2010	Lead	0.018 mg/L	0.0041 mg/L	South Outfall
2/8/2013	Zinc	1.06 mg/L	0.12 mg/L (CMC and CCC)	South Outfall
12/12/2011	Zinc	0.84 mg/L	0.12 mg/L (CMC and CCC)	South Outfall
10/5/2011	Zinc	3.14 mg/L	0.12 mg/L (CMC and CCC)	South Outfall
2/5/2010	Zinc	0.513 mg/L	0.12 mg/L (CMC and CCC)	South Outfall
2/8/2013	Narrative	Muddy	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
1/10/2013	Narrative	Oily	Oil & Grease (Basin Plan at 4-15)	South Outfall

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12/26/2012	Narrative	Oily	Oil & Grease (Basin Plan at 4-15)	South Outfall
12/24/2012	Narrative	Muddy	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
12/18/2012	Narrative	Oily	Oil & Grease (Basin Plan at 4-15)	South Outfall
12/17/2012	Narrative	Muddy	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
12/13/2012	Narrative	Oily	Oil & Grease (Basin Plan at 4-15)	South Outfall
12/3/2012	Narrative	Yellowish	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
11/29/2012	Narrative	Muddy	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
11/9/2012	Narrative	Oily	Oil & Grease (Basin Plan at 4-15)	South Outfall
2/15/2012	Narrative	Oily	Oil & Grease (Basin Plan at 4-15)	South Outfall
12/12/2011	Narrative	Muddy	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
11/4/2011	Narrative	Yellowish hue	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
10/5/2011	Narrative	Oily	Oil & Grease (Basin Plan at 4-18)	South Outfall
2/5/2010	Narrative	Discoloration	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall
12/30/2009	Narrative	Discoloration	Color (Basin Plan at 4-10); Turbidity (Basin Plan at 4-18)	South Outfall

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The information in the above table reflects data gathered from Cal Micro's self-monitoring during the 2008-2009, 2009-2010, 2010-2011, 2011-2012 and 2012-2013 wet seasons. CCAEJ alleges that during each of these wet seasons and continuing through today, Cal Micro has discharged storm water contaminated with pollutants at levels or observations that exceed or violate one or more applicable water quality standards, including, but not limited to, each of the following:

- Chemical Oxygen Demand – 15 mg/L, Basin Plan at 4-42, tbl. 4-1;
- Color – “Water discharges shall not result in coloration of the receiving waters which causes a nuisance or adversely affect beneficial uses,” *id.* at 4-10;
- Copper – 0.0182 mg/L, *id.* at 4-14;
- Copper – 0.009 mg/L (CMC), 40 C.F.R. § 131.38;
- Copper – 0.013 mg/L (CCC), *id.*;
- Lead – 0.0041 mg/L, Basin Plan at 4-14;
- Lead – 0.065 mg/L (CMC), 40 C.F.R. § 131.38;
- Lead – 0.025 mg/L (CCC), *id.*;
- Oil and Grease – “Waste discharges shall not result in deposition of oil, grease, wax, or other material in concentrations which result in a visible film or in coating objects in the water, or which cause a nuisance or adversely affect beneficial uses,” Basin Plan at 4-15;
- Turbidity – “All inland surface waters of the region shall be free of changes in turbidity which adversely affect beneficial uses,” *id.* at 4-18; and
- Zinc – 0.12 mg/L (CMC and CCC), 40 C.F.R. § 131.38

The following discharges of pollutants from the Facility contained concentrations of pollutants in excess of numeric water quality benchmarks established by EPA in the MGSP (“EPA Benchmarks”), evidencing past and ongoing violations of General Permit Discharge Prohibitions A(1) and A(2), Effluent Limitation B(3) and Receiving Water Limitations C(1) and C(2).

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Date	Parameter	Observed Concentration	EPA Benchmarks	Location (as identified by the Facility)
2/8/2013	Aluminum	4.78 mg/L	0.75 mg/L	South Outfall
12/12/2011	Aluminum	1.5 mg/L	0.75 mg/L	South Outfall
10/5/2011	Aluminum	3.5 mg/L	0.75 mg/L	South Outfall
2/5/2010	Aluminum	4.08 mg/L	0.75 mg/L	South Outfall
2/8/2013	Chemical Oxygen Demand	388 mg/L	120 mg/L	South Outfall
12/12/2011	Chemical Oxygen Demand	354 mg/L	120 mg/L	South Outfall
10/5/2011	Chemical Oxygen Demand	1170 mg/L	120 mg/L	South Outfall
2/8/2013	Copper	0.085 mg/L	0.0156 mg/L	South Outfall
12/12/2011	Copper	0.06 mg/L	0.0156 mg/L	South Outfall
10/5/2011	Copper	0.185 mg/L	0.0156 mg/L	South Outfall
2/5/2010	Copper	0.123 mg/L	0.0156 mg/L	South Outfall
2/8/2013	Iron	5.3 mg/L	1.0 mg/L	South Outfall
12/12/2011	Iron	2.31 mg/L	1.0 mg/L	South Outfall
10/5/2011	Iron	6.31 mg/L	1.0 mg/L	South Outfall
2/8/2013	Lead	0.248 mg/L	0.095 mg/L	South Outfall
10/5/2011	Lead	0.148 mg/L	0.095 mg/L	South Outfall
10/5/2011	Total Organic Carbon	235 mg/L	110 mg/L	South Outfall
2/5/2010	Total Organic Carbon	150 mg/L	110 mg/L	South Outfall
2/8/2013	Total Suspended Solids	195 mg/L	100 mg/L	South Outfall
10/5/2011	Total Suspended Solids	114 mg/L	100 mg/L	South Outfall
2/8/2013	Zinc	1.06 mg/L	0.13 mg/L	South Outfall
12/12/2011	Zinc	0.84 mg/L	0.13 mg/L	South Outfall
10/5/2011	Zinc	3.14 mg/L	0.13 mg/L	South Outfall
2/5/2010	Zinc	0.513 mg/L	0.13 mg/L	South Outfall

The information in the above table reflects data gathered from Cal Micro's self-monitoring during the 2008-2009, 2009-2010, 2010-2011, 2011-2012 and 2012-2013 wet seasons. CCAEJ alleges that during each of those rainy seasons and continuing through today, Cal Micro has discharged storm water contaminated with pollutants that exceed one or more applicable EPA Benchmarks, including, but not limited to, each of the following:

- Aluminum – 0.75 mg/L, MSGP at 102;

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- Chemical Oxygen Demand – 120 mg/L, *id.*;
- Copper – 0.0156 mg/L, *id.*;
- Iron – 1.0 mg/L, *id.*;
- Lead – 0.095 mg/L, *id.*;
- Total Organic Carbon – 110 mg/L;
- Total Suspended Solids – 100 mg/L, MSGP at 102; and
- Zinc – 0.13 mg/L, *id.* at 52, 102.

CCA EJ's investigation, including its review of Cal Micro's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of applicable water quality standards and the EPA's benchmark values, indicate that Cal Micro has not implemented BAT and BCT at the facility for its discharges of Aluminum, Chemical Oxygen Demand, Copper, Iron, Lead, Total Organic Carbon, Total Suspended Solids, Zinc and other pollutants in violation of Effluent Limitation B(3) of the General Permit. Cal Micro was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility opened. Thus Cal Micro is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the numbers listed in the table above indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit. CCA EJ alleges that such violations also have occurred and will occur on other rain dates, including every significant rain event that has occurred since at least December 6, 2008 and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which CCA EJ alleges that Cal Micro has discharged storm water containing impermissible levels of Aluminum, Chemical Oxygen Demand, Color, Copper, Iron, Lead, Oil & Grease, Total Organic Carbon, Turbidity, Zinc and other pollutants in violation of Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit.⁴

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants constitutes a separate violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions

⁴ The rain dates are all the days when an average of 0.1" or more rain fell as measured by a weather station located in Pomona, as well as comparing this data to the reported observations from the rain gauge at the Facility.

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brought pursuant to the CWA, Cal Micro is subject to penalties for violations of the General Permit and the Act since December 6, 2008.

b. Failure To Develop And Implement An Adequate Monitoring And Reporting Program.

Section B of the General Permit describes the monitoring requirements for storm water and non-storm water discharges. Facilities are required to make monthly visual observations of storm water discharges (Section B(4)) and quarterly visual observations of both unauthorized and authorized non-storm water discharges (Section B(3)). Section B(5) requires facility operators to sample and analyze at least two storm water discharges from all storm water discharge locations during each wet season. Section B(7) requires that the visual observations and samples must represent the “quality and quantity of the facility’s storm water discharges from the storm event.”

The above-referenced data was obtained from the Facility’s monitoring program as reported in its Annual Reports submitted to the Regional Board. This data is evidence that the Facility has violated various Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations in the General Permit. To the extent the storm water data collected by Cal Micro is not representative of the quality of the Facility’s various storm water discharges and that the Facility failed to monitor all qualifying storm water discharges, CCAEJ alleges that the Facility’s monitoring program violates Sections B(3), (4), (5) and (7) of the General Permit.

c. Failure To Analyze For Mandatory Parameters.

With some limited adjustments, facilities covered by the General Permit must sample two storm events per season from each of their storm water discharge locations. General Permit Section B(5)(a). Collected samples must be analyzed for Total Suspended Solids, pH, Specific Conductance and either Total Organic Carbon or O&G. *Id.* at Section B(5)(c)(i). Facilities must also analyze their storm water samples for “[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities,” including copper, lead, zinc, aluminum, chemical oxygen demand, and iron. *Id.* at Section B(5)(c)(ii); MSGP at 52, 102.

CCA EJ’s investigation of the Cal Micro’s monitoring data indicates that you have failed to analyze for Copper, Lead, Zinc, Iron, Aluminum, Chemical Oxygen Demand, and pH during the 2009-2010 wet season.

Each failure to analyze for mandatory parameters constitutes a separate violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the CWA, Cal Micro is subject to penalties for violations of the General Permit and the Act since December 6, 2008.

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d. Failure To Prepare, Implement, Review and Update An Adequate Storm Water Pollution Prevention Plan.

Section A and Provision E(2) of the General Industrial Storm Water Permit require dischargers of storm water associated with industrial activity to develop, implement, and update an adequate storm water pollution prevention plan (hereinafter "SWPPP") no later than October 1, 1992. Section A(1) and Provision E(2) requires dischargers who submitted an NOI pursuant to the General Permit to continue following their existing SWPPP and implement any necessary revisions to their SWPPP in a timely manner, but in any case, no later than August 1, 1997.

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices (hereinafter "BMPs") to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must include: a description of individuals and their responsibilities for developing and implementing the SWPPP (General Permit, Section A(3)); a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity (General Permit, Section A(4)); a list of significant materials handled and stored at the site (General Permit, Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (General Permit, Section A(6)).

The SWPPP also must include an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective (General Permit, Section A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised where necessary (General Permit, Section A(9),(10)). The SWPP must also include a certification statement and signature (General Permit, Section C(10)).

CCA EJ's investigation of the conditions at the Facility as well as Cal Micro's Annual Reports indicates that Cal Micro has been operating with an inadequately developed SWPPP in violation of the requirements set forth above. Cal Micro has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. Cal Micro has been in continuous violation of Section A and Provision E(2) of the General Permit every day since December 5, 2008, at the

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very latest, and will continue to be in violation every day that Cal Micro fails to prepare, implement, review, and update an effective SWPPP. Cal Micro is subject to penalties for violations of the Order and the Act occurring since December 6, 2008.

e. Failure To Implement Storm Water Best Management Practices.

Provision E(2) as well as Sections A(1), A(9), A(10)(c), and A(10)(d) of the General Permit require that a facility implement BMPs adopted in their SWPPP “when industrial activities begin,” “prior to any changes in industrial activity at the Facility,” and at most within 90 days of any revisions to the SWPPP. Moreover, if a facility determines that any part of the SWPPP is infeasible to implement by the deadlines, a facility is required to report this to the Regional Board “prior to the applicable deadline.”

CCA EJ’s investigation of the conditions at the Facility as well as the City of Ontario’s Stormwater Program Inspection Reports indicates that Cal Micro has consistently failed to implement BMPs adopted as part of their SWPPP. Inspections by the City of Ontario shows that Cal Micro has failed to implement both non-structural and structural BMPs that are outlined in its SWPPP, including sweeping of trash and debris and installation of storm water treatment controls. City of Ontario Stormwater Program, Industrial Facility Inspection Report, File No. Brooks St W 1541 and 1525 (Jan. 3 2013); City of Ontario Stormwater Program, Industrial Facility Inspection Report, File No. Brooks St W 1541 and 1525 (Sept. 19 2011); City of Ontario Stormwater Program, Industrial Facility Inspection Report, File No. Brooks St W 1541 and 1525 (Oct. 25 2010); City of Ontario Stormwater Program, Industrial Facility Inspection Report, File No. Brooks St W 1541 and 1525 (Dec. 11 2009).

f. Failure To File True And Correct Annual Reports.

Section B(14) of the General Industrial Storm Water Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. General Permit, Sections B(14), C(9), C(10). Section A(9)(d) of the General Industrial Storm Water Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Industrial Storm Water Permit. *See also* General Permit, Sections C(9) and (10) and B(14).

For the last five years, Cal Micro and its agents, Mike Easterbrook, Ruuhwa Dann and Puneet Gupta, inaccurately certified in their Annual Reports that the Facility was in compliance with the General Permit. Consequently, Cal Micro has violated Sections A(9)(d), B(14), C(9) and C(10) of the General Industrial Storm Water Permit every time Cal Micro failed to submit a complete or correct report and every time Cal Micro or its agents falsely purported to comply with the Act. Cal Micro is subject to penalties for violations of Section (C) of the General

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Industrial Storm Water Permit and the Act occurring since December 6, 2008.

III. Persons Responsible For the Violations.

CCAIEJ puts Cal Micro Recycling, Ruuhwa Dann & Associates, Inc., Mike Easterbrook, Ruuhwa Dann, and Puneet Gupta on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CCAIEJ puts Cal Micro Recycling, Ruuhwa Dann & Associates, Inc., Mike Easterbrook, Ruuhwa Dann, and Puneet Gupta on notice that it intends to include those persons in this action.

IV. Name And Address Of Noticing Parties.

The name, address and telephone number of CCAIEJ is as follows:

Center for Community Action and Environmental Justice
P.O. Box 33124
Jurupa Valley, CA 92519
Tel. (951) 360-8451

V. Counsel.

CCAIEJ has retained counsel to represent it in this matter. Please direct all communications to:

Gideon Kracov
Mitchell M. Tsai
The Law Office of Gideon Kracov
801 South Grand Avenue
11th Floor
Los Angeles, California 90017
Tel: (213) 629-2071
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VI. Penalties.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects Cal Micro to a penalty of up to \$32,500.00 per day per violation for all violations occurring during the period commencing five years prior to the date of this Notice of Violations and Intent to File Suit through January 12, 2009, and a maximum of \$37,500 per day per violation for all violations occurring after January 12, 2009. In addition to civil penalties, CCAIEJ will seek

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injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

CCA EJ believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. CCA EJ intends to file a citizen suit under Section 505(a) of the Act against Cal Micro and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, CCA EJ would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, CCA EJ suggests that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. CCA EJ does not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Mitchell M. Tsai

The Law Office of Gideon Kracov
Attorneys for Center for Community Action and
Environmental Justice

SERVICE LIST

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
12000 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Thomas Howard, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Eric Holder, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Jared Blumenfeld, Regional Administrator
U.S. EPA – Region 9
75 Hawthorne Street
San Francisco, CA 94105

Kurt V. Berchtold, Executive Officer
Santa Ana Regional Water Quality Control Board
3737 Main Street
Suite 500
Riverside, CA 92501-3348

*Served via Certified Mail, Return Receipt Requested.

ATTACHMENT A**Rain Dates, Cal Micro, Ontario, California**

11/26/2008	12/15/2008	12/16/2008
12/17/2008	12/25/2008	2/5/2009
2/6/2009	2/7/2009	2/8/2009
2/9/2009	2/13/2009	2/16/2009
11/30/2009	12/6/2009	12/7/2009
12/16/2009	12/29/2009	1/3/2010
1/4/2010	1/5/2010	1/7/2010
1/9/2010	1/10/2010	2/7/2010
2/8/2010	2/12/2010	2/14/2010
2/17/2010	2/19/2010	2/20/2010
2/21/2010	2/22/2010	2/23/2010
2/25/2010	2/27/2010	2/28/2010
3/1/2010	3/2/2010	3/5/2010
3/15/2010	3/17/2010	11/30/2010
12/6/2010	12/7/2010	12/16/2010
1/3/2011	1/4/2011	1/5/2011
1/7/2011	1/9/2011	1/10/2011
2/7/2011	2/8/2011	2/12/2011
2/14/2011	2/17/2011	2/19/2011
2/20/2011	2/21/2011	2/22/2011
2/23/2011	2/25/2011	2/27/2011
2/28/2011	3/1/2011	3/2/2011
3/5/2011	3/15/2011	3/17/2011

11/30/2011	12/6/2011	12/7/2011
12/16/2011	12/29/2011	1/3/2012
1/4/2012	1/5/2012	1/7/2012
1/9/2012	1/10/2012	2/7/2012
2/8/2012	2/12/2012	2/14/2012
2/17/2012	2/19/2012	2/20/2012
2/21/2012	2/22/2012	2/23/2012
2/25/2012	2/27/2012	2/28/2012
2/29/2012	3/1/2012	3/2/2012
3/5/2012	3/15/2012	3/17/2012
11/30/2012	12/6/2012	12/7/2012
12/16/2012	12/29/2012	1/3/2013
1/4/2013	1/5/2013	1/7/2013
1/9/2013	1/10/2013	2/7/2013
2/8/2013	2/12/2013	2/14/2013
2/17/2013	2/19/2013	2/20/2013
2/21/2013	2/22/2013	2/23/2013
2/25/2013	2/27/2013	2/28/2013
3/1/2013	3/2/2013	3/5/2013
3/15/2013	3/17/2013	11/30/2013

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge Virginia A. Phillips and the assigned Magistrate Judge is Sheri Pym.

The case number on all documents filed with the Court should read as follows:

EDCV14-230-VAP(SP_x)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

February 5, 2014

Date

By C. Sawyer
Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

☐ Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

☒ Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I. (a) PLAINTIFFS (Check box if you are representing yourself ☐)

Center for Comunity Action and Environmental Justice

DEFENDANTS (Check box if you are representing yourself ☐)

Ruuhwa Dann & Associates, Inc. dba Cal Micro Recycling

(b) County of Residence of First Listed Plaintiff Riverside

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant San Bernardino

(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

Gideon Kracov, 801 S. Grand Av., 11th Fl., LA, CA 90017 213-629-2071
Michale Lozeau, Douglas Chermak, Lozeau | Drury LLP, 410 12th St., #250, Oakland, CA 94607 510-836-4200

Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1. U.S. Government Plaintiff
☐ 2. U.S. Government Defendant
☒ 3. Federal Question (U.S. Government Not a Party)
☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

- | | | | | | |
|---|--------------------------------|--------------------------------|---|---|---|
| Citizen of This State | PTF <input type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | PTF <input checked="" type="checkbox"/> 4 | DEF <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1. Original Proceeding
☐ 2. Removed from State Court
☐ 3. Remanded from Appellate Court
☐ 4. Reinstated or Reopened
☐ 5. Transferred from Another District (Specify)
☐ 6. Multi-District Litigation

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☐ Yes ☒ No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.P. 23: ☐ Yes ☒ No **MONEY DEMANDED IN COMPLAINT:** \$

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
Federal Water Pollution Control Act, 33 USC section 1251 et seq. / action to enforce federal permit requirements under Clean Water Act

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	Habeas Corpus:	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	TORTS	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument	PERSONAL INJURY	PERSONAL PROPERTY	<input type="checkbox"/> 530 General	SOCIAL SECURITY
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	Other:	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	FEDERAL TAX SUITS
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	FORFEITURE/PENALTY	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input checked="" type="checkbox"/> 893 Environmental Matters	REAL PROPERTY	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 441 Voting	LABOR	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 740 Railway Labor Act	
			<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 751 Family and Medical Leave Act	
			<input type="checkbox"/> 448 Education	<input type="checkbox"/> 790 Other Labor Litigation	
				<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	

FOR OFFICE USE ONLY:

Case Number:

CIVIL COVER SHEET

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CV-71 (11/13)

ED CV14-0230

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

Question A: Was this case removed from state court?	STATE CASE WAS PENDING IN THE COUNTY OF:	INITIAL DIVISION IN CACD IS:
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	<input type="checkbox"/> Los Angeles	Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
	<input type="checkbox"/> Orange	Southern
	<input type="checkbox"/> Riverside or San Bernardino	Eastern

Question B: Is the United States, or one of its agencies or employees, a party to this action?	If the United States, or one of its agencies or employees, is a party, is it:		INITIAL DIVISION IN CACD IS:
	A PLAINTIFF?	A DEFENDANT?	
	Then check the box below for the county in which the majority of DEFENDANTS reside.	Then check the box below for the county in which the majority of PLAINTIFFS reside.	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," go to Question C. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	<input type="checkbox"/> Los Angeles	<input type="checkbox"/> Los Angeles	Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
	<input type="checkbox"/> Orange	<input type="checkbox"/> Orange	Southern
	<input type="checkbox"/> Riverside or San Bernardino	<input type="checkbox"/> Riverside or San Bernardino	Eastern
	<input type="checkbox"/> Other	<input type="checkbox"/> Other	Western

Question C: Location of plaintiffs, defendants, and claims? (Make only one selection per row)	A. Los Angeles County	B. Ventura, Santa Barbara, or San Luis Obispo Counties	C. Orange County	D. Riverside or San Bernardino Counties	E. Outside the Central District of California	F. Other
Indicate the location in which a majority of plaintiffs reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of defendants reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of claims arose:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

C.1. Is either of the following true? If so, check the one that applies:

- ☐ 2 or more answers in Column C
- ☐ only 1 answer in Column C and no answers in Column D

Your case will initially be assigned to the
SOUTHERN DIVISION.
Enter "Southern" in response to Question D, below.

If none applies, answer question C2 to the right. →

C.2. Is either of the following true? If so, check the one that applies:

- ☒ 2 or more answers in Column D
- ☐ only 1 answer in Column D and no answers in Column C

Your case will initially be assigned to the
EASTERN DIVISION.
Enter "Eastern" in response to Question D, below.

If none applies, go to the box below. ↓

Your case will initially be assigned to the
WESTERN DIVISION.
Enter "Western" in response to Question D below.

Question D: Initial Division?	INITIAL DIVISION IN CACD
Enter the initial division determined by Question A, B, or C above: →	Eastern

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

IX(a). IDENTICAL CASES: Has this action been previously filed **in this court** and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Have any cases been previously filed **in this court** that are related to the present case? ☒ NO ☐ YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**X. SIGNATURE OF ATTORNEY
(OR SELF-REPRESENTED LITIGANT):** _____

DATE: _____

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))